

THE HON'BLE SRI JUSTICE P.S.NARAYANA

-
WRIT PETITION NO.15464 of 2007

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DATED 06.09.2007

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Between:

Syed Ghalib Jameel.

..... PETITIONER

versus

The Regional Passport Officer,
Station Road, Secunderabad.

..... RESPONDENT

THE HON'BLE SRI JUSTICE P.S.NARAYANA

-
WRIT PETITION NO.15464 of 2007

ORDER:

Heard Sri M.Ramachandra Goud, learned counsel representing the petitioner and the learned Assistant Solicitor General representing the respondent.

2. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondent in not receiving the application seeking correction of date of birth as 2.12.1966 and further action of the respondent in directing petitioner to obtain a Court order to correct the date of birth is arbitrary, illegal and against to all canons of justice besides the instructions issued by the Ministry of External Affairs in its circular and consequently direct the respondent to make the correction of date of birth as 2.12.1966 instead of 2.2.1966 in his passport and pass such other suitable orders.

3. It is stated that the petitioner applied for Passport through his agent in the year 2005, which had been filed by his agent, who had been engaged by him to help him in obtaining the passport in his name. It is stated that the said agent at the time of filling of the

application for grant of passport, wrongly mentioned the petitioner's date of birth as 2.2.1966 instead of 2.12.1966 inadvertently and immediately on noticing the said wrong entry of his date of birth, petitioner sought to file an application seeking correcting his date of birth as per the date of birth entered in his School Leaving Certificate and the respondent not even accepted his application and had directed him to obtain a declaratory decree from the competent civil Court or an order from this Court or else they would not receive even the application. It is stated that the Circular dated 18.4.2001 issued by Ministry of External Affairs, Government of India, which reads as under:

- (a) Where an applicant is seeking rectification/correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, after the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
- (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.
- (c) Where the initial entry has been made on the basis of a supportive document issued by one competent authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority, i.e., Municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction certifying the valid date of birth/place of birth.

It is also further stated that in the similar circumstances, this Court disposed of Writ Petition No.18325 of 2006 on 19.12.2006 observing as follows:

“In case on hand, the correction sought to be made are supported by four authenticate certificates issued by the competent authorities, which are as under:

- (a) Municipal Birth Certificate dated 15.1.1986;
- (b) School Leaving Certificate dated 28.2.1990, issued by Girton High School, Grant Road, Bombay;
- (c) VII Class Certificate dated 5.6.1998 and
- (d) 10th Class Certificate dated 30.4.2001.

The specific plea of the petitioner is that the initial entries in her passport were not supported by documents issued by a competent authority was neither contradicted by the respondent nor any other material is placed before this Court to show that the documents produced by the petitioner were emanated from conflicting sources. Except observing that it is not a technical correction, even in the impugned order nothing has been mentioned that the supportive documents produced by the petitioner cannot be relied upon since they emanated from different source.

Having regard to the facts and circumstances, I am unable to hold that Clause © of the Circular dated 18.4.2001 is attracted warranting production of a declaratory decree from the civil Court. The impugned order appears to have been passed mechanically without proper appreciation of the material produced.

Accordingly, the impugned order is set aside and the Writ Petition is allowed with a direction to the respondent to consider the application of the petitioner for fresh passport, without insisting on any declaratory decree from the civil Court, on the basis of the supportive documents produced by the petitioner. Such exercise shall be completed as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. No costs”.

It is further stated that the respondent has to correct the correction of the petitioner's date of birth by following the instructions as contained in Circular dated 18.4.2001 and in accordance with the judgment in Writ Petition No.18325 of 2006 dated 19.12.2006. It is also stated that it is a rectification/correction of a mistake in the entry in the petitioner's passport regarding, in support of the same he had filed Board of

Secondary Education Certificate (10th Class Certificate) bearing Roll No.702580. It is further stated that the petitioner's request in the application falls within the purview of the instructions issued by the Ministry of External Affairs in circular dated 18.4.2001 under clause (a) and in view of the above, the respondent is bound to carry out the corrections as the said mistake crept is a *bona fide* one and was inadvertent without any *mala fide* intention. It is stated that if the respondent is not directed to receive the application for correction of the date of birth in the passport as per the School Leaving Certificate and the other supported documents enclosed to it, the petitioner would suffer grave and irreparable loss and hardship.

4. In Writ Petition No.18325 of 2006, dated 19.12.2006, the learned Judge placed reliance on the decision reported in ALI IMRAB vs. REGIONAL PASSPORT OFFICER¹ and also further observed that in relation to the Circular as hereunder:

“For proper appreciation, the Circular dated 18.4.2001 issued by the Government of India, Ministry of External Affairs, with regard to the correction of the entries in the passport, may be extracted hereunder:

- (a) Where an applicant is seeking rectification/correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, after the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
- (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

© Where the initial entry has been made on the basis of a supportive document issued by one competent

authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority, i.e., Municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction certifying the valid date of birth/place of birth.

Reliance also was placed on the decision of this Court in Writ Petition No.5300 of 2007, dated 16.5.2007, wherein the learned Judge observed as hereunder:

“The following three clauses have been spelt out therein, they are.,

- (a) Where an applicant is seeking rectification/correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport Issuing Authority) may after verifying/satisfying himself, after the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.
- (b) Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.

© Where the initial entry has been made on the basis of a supportive document issued by one competent authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority, i.e., Municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction certifying the valid date of birth/place of birth.

It was also further observed at paragraph 3, which is as follows:

“A perusal of the above mentioned guidelines contained in circular dated 18th April, 2001 of Ministry of External

Affairs, Government of India, makes the position amply clear that where an applicant is seeking any rectification or correction of a mistake in the entry of the date of birth or place of birth in the passport, the Passport Issuing Authority may after verifying and satisfying himself carry out or effect the necessary correction treating the same as a technical error. In such type of cases there is no necessity to insist upon production of any declaratory order from any competent civil Court. However, where the initial entry has been made on the basis of a supportive document issued by any of the competent authorities, any subsequent request for a change on the basis of a certificate issued by any other competent authority such as Municipal Authorities, the Passport Issuing Authority should direct the applicant to obtain an order from a competent civil Court having jurisdiction in the matter certifying the valid date of birth or place of birth”.

5. In the light of the facts and circumstances, since it is stated that the respondent had not received the application of the petitioner for correction of his date of birth as 2.12.1966, the Writ Petition is disposed of directing the respondent to receive the application of the petitioner and take further action in this regard within a period of fifteen (15) days from the date of receipt of a copy of this order in accordance with law and also in the light of the decisions already referred to supra. There shall be no order as to costs.

06.09.2007

SSR

¹2003(3) ALD 625.